

SECTION 4. Section 51 of chapter 7 of the General Laws is hereby repealed.

SECTION 5. Chapter 75 of the General Laws is hereby amended by inserting after section 45 the following section:—

Section 46. There shall be at the University of Massachusetts at Boston an office of dispute resolution under the supervision and control of a director who shall be appointed by the provost with the approval of the chancellor and concurrence of the board of trustees. The director shall be a person with substantial training and professional experience in dispute resolution, shall maintain complete impartiality with respect to the matters coming before the office of dispute resolution, and shall devote full time to the duties of the office.

The office of dispute resolution shall be available to assist agencies and offices of the executive, legislative, and judicial branches of the commonwealth, as well as any political subdivision or public instrumentality created by the commonwealth or any county, city, or town, hereafter referred to as public agencies, to improve the resolution of disputes that arise within their respective jurisdictions. The office may (a) facilitate the resolution of disputes through provision of impartial mediation and other dispute resolution services; (b) establish standards for the selection, assignment, and conduct of persons acting on behalf of the office in the resolution of disputes; (c) conduct educational programs and provide other services designed to reduce the occurrence, scope, complexity, or cost of disputes; (d) design, develop, or operate dispute resolution programs or to assist public agencies to improve or extend their existing dispute resolution programs; and (e) take other action to promote and facilitate dispute resolution by public agencies in the commonwealth. The director may establish reasonable fees to be charged to parties, litigants, or public agencies for the provision of the educational, consultation, dispute resolution, or other services authorized herein and may apply for and accept on behalf of the commonwealth any federal, local, or private grants, bequests, gifts, or contributions to aid in the financing of any of the programs or activities of the office. Fees, grants, bequests, gifts, or contributions shall be received by the University of Massachusetts at Boston and deposited in a separate account and shall be expended, without further appropriation, at the direction of the director, with the approval of the provost, for the cost of operation of the office, including personnel. The office may make agreements with public agencies and officers and may contract with other persons, including private agencies, corporations, or associations, to carry out any of the functions and purposes of this section. The office shall annually prepare a report on the activities of the office, including all income and expenditures, and file the report with the house and senate committees on ways and means on or before December 31.

SECTION 6. Section 39C of chapter 112 of the General Laws, inserted by section 306 of chapter 26 of the acts of 2003, is hereby amended by inserting after the first sentence the following sentence:— A registered entity shall be considered a retail pharmacy and not a provider of institutional, residential, or long-term care services.

SECTION 7. Section 18 of said chapter 118G is hereby amended by striking out subsection (o), as appearing in the 2002 Official Edition, and inserting in place thereof the following subsection:—

(o) Within the Uncompensated Care Trust Fund, there shall be established a medical assistance account, administered by the secretary of health and human services, consisting of any funds directed to the commonwealth from public entities and federal reimbursements related to medical assistance payments funded by this account. All amounts credited to this account shall be held in trust and shall be available for expenditure by the secretary to be used for medical assistance payments to entities authorized by the general court, and for which a public entity has contractually agreed to direct funds to the account. Any amount in excess of such medical assistance payments may be credited to the General Fund and the amount of all such expenditures shall be subject to annual approval by the general court. The maximum payments from the account shall not exceed those permissible for federal reimbursement under Title XIX or Title XXI of the Social Security Act or any successor federal law. The comptroller may make payments, including payments during the accounts payable period, in anticipation of revenues, including receivables due and collectibles during the months of July and August, and shall establish procedures for reconciling overpayments or underpayments from the account. Such procedures shall include, but not be limited to, appropriate mechanisms for refunding public funds directed to the account and federal reimbursements upon recoupment of any such overpayments. The executive office of health and human services shall ensure that the division of health care finance and policy is informed regarding revenue and expenditure activity within the account and submit to the secretary of administration and finance and the house and senate committees on ways and means a schedule of such payments 10 days before any expenditures, and no funds shall be expended without an enforceable agreement with or legal obligation imposed upon a public entity to make an intergovernmental transfer in an appropriate amount to the account.

SECTION 8. Chapter 175 of the acts of 1998 is hereby amended by striking out section 25, as amended by section 1 of chapter 172 of the acts of 1999, and inserting in place thereof the following section:—

Section 25. Sections 3A, 20A, and 21A shall take effect on December 31, 2008.

SECTION 9. Chapter 141 of the acts of 2003 is hereby amended by striking out section 79 and inserting in place thereof the following section:—

Section 79. Section 11 shall take effect on December 31, 2008.

SECTION 10. Section 439 of chapter 26 of the acts of 2003 is hereby amended by striking out in lines 36 to 41, inclusive, the words “ ; Notwithstanding any general or

special law to the contrary, the Authority and the secretary of administration and finance shall deposit in the Pension Reserve Investment Trust, pursuant to this act, any of the revenues of the Boston common parking garage in excess of the costs of maintenance, repair and operation thereof, reasonable reserves for such purposes and cost of debt service on bonds issued to finance the restoration of the Boston common parking garage”.

SECTION 11. Chapter 443 of the acts of 2004 is hereby amended by striking out section 1 and inserting in place thereof the following section:—

Section 1. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance shall convey a certain parcel of state-owned land in the city of Revere to Joseph A. Festa, Jr. and John V. Festa, Trustees of the Festa Towers Irrevocable Trust for parking purposes only.

The parcel of land is located on Revere Beach boulevard and is shown as 19,125 square feet, more or less, and shown as “Map-Block-Parcel-Unit 2-140-004 on a plan of land of Revere, Mass”, dated April 3, 2000, and drawn by Albert A. Romano. The exact boundaries of the parcel shall be determined by the commissioner after completion of a survey.

SECTION 12. Notwithstanding the provisions of any general or special law to the contrary, the executive office of health and human services, pursuant to section 16 of chapter 6A of the General Laws, acting in its capacity as the single state agency under Title XIX of the Social Security Act, and other federally assisted programs administered by said secretariat, and as the principal agency for all of the agencies within the secretariat, is authorized to enter into interdepartmental services agreements with the University of Massachusetts medical school to perform such activities as the secretary, in consultation with the comptroller, determines are appropriate and within the scope of the proper administration of said Title XIX and other federal funding provisions to otherwise support the programs and activities of the executive office. Such activities shall include: (1) provision of administrative services, including, but not limited to, activities such as providing the medical expertise to support or administer utilization management activities, determining eligibility based on disability, supporting case management activities, and similar initiatives; (2) consulting services related to quality assurance, program evaluation and development, integrity and soundness, and project management; and (3) activities and services for the purpose of pursuing federal reimbursement or avoiding costs, third party liability, and recouping payments to third parties. Federal reimbursement for any expenditures made by the University of Massachusetts medical school relative to federally-reimbursable services provided by the University under said interdepartmental service agreements or other contracts with the executive office shall be distributed to said university. The secretary may negotiate contingency fees for activities and services related to the purpose of pursuing federal reimbursement or avoiding costs, and the comptroller shall be directed to certify said fees and pay upon the receipt of such revenue, reimbursement, or demonstration of costs avoided; provided, however, that the secretary shall not pay contingency fees in excess of \$40,000,000 for state fiscal year 2006. The secretary of health and human services shall submit to the secretary of administration and finance and the house and senate committees on ways and means a

quarterly report detailing the amounts of the agreements, the ongoing and new projects undertaken by the university, the amounts spent on personnel, and the amount of federal reimbursement and recoupment payments that said university was able to collect.

SECTION 13. Notwithstanding any general or special law to the contrary, state agencies and direct and subcontracted providers of health-related services, including purchase-of-service providers financed from appropriation items for any state agency, shall maximize coverage under Title XIX of the Social Security Act and all other federal, state, and private health insurance coverage available to offset costs to the commonwealth. The agencies or providers shall collect information from clients, or from the parent or guardian of a minor receiving services, necessary to determine the extent to which clients may be eligible for medical assistance benefits under chapter 118E of the General Laws or are beneficiaries of any health insurance policy. The agencies or providers shall forward client information collected under this section to the executive office of health and human services and this data shall only be used to match against available databases for the purpose of identifying all sources of potential payment for health services or health insurance coverage. As required or permitted by federal law, the executive office of health and human services shall return the results of any data matches to the originating agency, which shall take the appropriate action to ensure that costs to the commonwealth are minimized. These actions shall include, but not be limited to, the agency or provider billing or re-billing all verified third-party sources. The executive office of administration and finance may grant an agency or provider an exemption from this section for good cause. The executive office of health and human services and the division of procurement within the executive office of administration and finance shall review regulations, contracting forms, service delivery reports, and uniform financial reporting requirements to determine what changes are necessary for the successful implementation of this section.

SECTION 14. Notwithstanding any general or special law to the contrary, the executive office of health and human services may promulgate regulations allowing any dentist participating in the MassHealth program to limit the number of MassHealth patients in his practice in accordance with standards or procedures to be established by the executive office of health and human services.

SECTION 15. Notwithstanding any general or special law to the contrary, the department of mental health, the department of public health, the executive office of health and human services and the division of health care finance and policy shall take any appropriate action to obtain the maximum amount of federal financial participation available for amounts paid for low-income care costs at those mental health and public health facilities determined to be disproportionate share hospitals in accordance with requirements of Title XIX of the Social Security Act. Appropriate action may include, but shall not be limited to, the establishment of a separate account within the Uncompensated Care Trust Fund, established by section 18 of chapter 118G of the General Laws, for the purpose of making disproportionate share payment adjustments to qualifying mental health and public health facilities under relevant division of health care finance and policy regulations and the Title XIX state plan on file with the centers for

Medicare and Medicaid services. The executive office of health and human services, the department of public health and the department of mental health may expend amounts transferred to them from a separate account within the Uncompensated Care Trust Fund without further appropriation. Any federal funds obtained as a result of actions taken under this section shall be deposited in the General Fund. The state treasurer and the comptroller shall establish such procedures as may be necessary to effectuate this section, including procedures for the proper accounting and expenditure of funds under this section.

SECTION 16. Notwithstanding any general or special law to the contrary, during fiscal year 2006, the executive office of health and human services shall expend from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund an amount equal to the actual amount paid for fiscal year 2005 for a program of MassHealth supplemental payments to certain publicly-operated entities providing Title XIX reimbursable services, directly or through contracts with hospitals, under an agreement with the executive office, relating to such payments and transfers as established in accordance with Title XIX of the Social Security Act or federal waivers thereof, federal regulations promulgated thereunder, the terms of the waiver under section 1115 of the Social Security Act, state law and the medicaid state plan. The funds may be expended only for payment obligations arising during fiscal year 2006. The expenditures shall reduce payments from the Uncompensated Care Trust Fund to such entities by an amount comparable to the net revenues received by such entities under this section. The executive office shall notify the house and senate committees on ways and means if the expenditures are rendered ineligible for federal reimbursement. All expenditures made pursuant to this section shall be reported quarterly to the house and senate committees on ways and means. Amounts authorized for expenditure shall be funded in part through intergovernmental transfers to the commonwealth of municipal or other nonfederal public funds. The Boston Public Health Commission and the Cambridge Public Health Commission shall transfer to the medical assistance intergovernmental transfer account an amount equal to 55 per cent of the gross amounts of supplemental payments made by the executive office under managed care contracts with the commissions. An amount equal to 9.09 per cent of the total amount that the Boston and Cambridge Public Health Commissions transfer to the medical assistance intergovernmental transfer account pursuant to this section shall be transferred from the medical assistance intergovernmental transfer account and credited to the Distressed Provider Expendable Trust Fund.

SECTION 17. Notwithstanding the provisions of any general or special law to the contrary, the executive office of health and human services and the division of health care finance and policy shall take any appropriate action to obtain the maximum amount of federal financial participation available for amounts paid to hospitals, determined by the division to be disproportionate share hospitals in accordance with Title XIX requirements, for low income care costs of such hospitals. Such appropriate action may include, but shall not be limited to, the assessment on hospitals for their liability to the uncompensated care pool pursuant to chapter 118G of the General Laws. Such appropriate action shall include the establishment or renewal of an interdepartmental

services agreement between the executive office and the division which may authorize the division to make deposits into and payments from an account established for the purposes of this section within the Uncompensated Care Trust Fund, established by section 18 of said chapter 118G, or authorize the division to transfer uncompensated care fee revenue collected from hospitals pursuant to said chapter 118G or funds otherwise made available to said trust fund by the general court, to the executive office for the purposes of making disproportionate share adjustment payments to hospitals qualifying for such payments in accordance with the commonwealth's Title XIX state plan and relevant provisions of Title XIX. The executive office may expend amounts transferred to it from the Uncompensated Care Trust Fund by the division under such interdepartmental services agreement without further appropriation. In no event shall the amount of money assessed upon each hospital exceed the hospital's gross liability to the uncompensated care trust fund as determined by the division of health care finance and policy pursuant to said section 18 of said chapter 118G. Any federal funds obtained as a result of said actions shall be deposited into the General Fund. The offices of the state treasurer and the comptroller shall establish such procedures as may be necessary to accomplish the purpose of this section, including procedures to facilitate the expeditious assessment, collection, and expenditure of funds pursuant to this section.

SECTION 18. Notwithstanding the provisions of any general or special law to the contrary, the comptroller shall, in consultation with the office of the state treasurer, the executive office for administration and finance, and the executive office of health and human services, develop a schedule for transferring the unexpended balance from account 4000-0896 in the state accounting system to the Uncompensated Care Trust Fund for the purpose of making revenues available for the administration of the uncompensated care pool, established under subsection (d) of section 18 of chapter 118G of the General Laws, and pursuant to the provisions of this act. Said schedule shall make said transfers in increments as deemed appropriate to meet the cash flow needs of the commonwealth and said uncompensated care pool; provided, that said transfers shall not begin before October 1, 2005 and shall be completed on or before June 30, 2006.

SECTION 19. Notwithstanding any general or special law to the contrary, the comptroller shall transfer on or before October 1, 2005, the greater of \$30,000,000 or one-twelfth of the total expenditures to be made to hospitals and community health centers pursuant to this act, from the General Fund to the Uncompensated Care Trust Fund established pursuant to section 18 of chapter 118G of the General Laws, for the purpose of making initial gross payments to qualifying acute care hospitals for the hospital fiscal year beginning October 1, 2005. Said payments shall be made, without further appropriation, to hospitals prior to, and in anticipation of, the payment by hospitals of their gross liability to the Uncompensated Care Trust Fund. The comptroller shall transfer from the Uncompensated Care Trust Fund to the General Fund not later than June 30, 2006, the amount of the transfer authorized herein and any allocation thereof as certified by the commissioner of the division of health care finance and policy.

SECTION 20. Notwithstanding any general or special law to the contrary, during fiscal year 2006, the comptroller shall transfer from the Health Care Security Trust,

established under chapter 29D of the General Laws, to the General Fund an amount equal to 100 per cent of the total of all payments received by the commonwealth in fiscal year 2006 pursuant to the master settlement agreement in the action known as Commonwealth of Massachusetts v. Phillip Morris, Inc. et. al., Middlesex Superior Court, No. 95-7378, and 50 per cent of the earnings generated in fiscal year 2006 from the Health Care Security Trust as certified by the comptroller pursuant to paragraph (f) of section 3 of chapter 29D of the General Laws for certain health care expenditures appropriated in section 2.

SECTION 21. Notwithstanding any general or special law to the contrary, pension benefits funded through item 0612-2000 in fiscal year 2004 shall be funded from the Pension Reserves Investment Trust fund, as established by subdivision (8) of section 22 of chapter 32 of the General Laws. The state treasurer shall report to the house and senate committees on ways and means not later than November 15, 2005, on the benefits funded pursuant to this section. This report shall list the amount of benefits received by each individual through this funding in fiscal year 2005 and the amount of benefits projected to be received by each individual through this funding in fiscal year 2006.

SECTION 22. (a) Notwithstanding any general or special law to the contrary, this section shall facilitate the orderly transfer of the employees, proceedings, rules and regulations, property and legal obligations of the following agencies of state government from the transferor agency to the transferee agency, defined as follows:

(1) the early education and care functions of the department of education, as the transferor agency, to the department of early education and care, as the transferee;

(2) the functions of the office of child care services with regard to licensure or approval and subsidy administration of child care and day care, as presently described in section 2 of chapter 28A of the General Laws, but excluding the functions listed in clause (3), as the transferor agency, to the department of early education and care, as the transferee; and

(3) the functions of the office of child care services with regard to licensure of adoption or foster care placement agencies or residential group care facilities or temporary shelters, as the transferor agency, to the executive office of health and human services, as the transferee.

(b) Subject to appropriation, those employees to be transferred from each transferor agency, including those who immediately before the effective date of this act hold permanent appointment in positions classified under chapter 31 of the General Laws or have tenure in their positions as provided by section 9A of chapter 30 of the General Laws do not hold such tenure, or hold confidential positions, are hereby transferred to the respective transferee agency without interruption of service within the meaning of said section 9A of said chapter 30, without impairment of seniority, retirement, or other rights of the employee and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such reorganization, without loss of accrued rights to holidays, sick leave, vacation, and benefits and without change in union representation or certified collective bargaining unit as certified by the state labor relations commission or in local union representation or affiliation.

(c) Any collective bargaining agreement in effect immediately before the transfer date shall continue in effect and the terms and conditions of employment therein shall

continue as if the employees had not been so transferred. The reorganization shall not impair the civil service status of any such reassigned employee who, immediately before the effective date of this act, either holds a permanent appointment in a position classified under chapter 31 of the General Laws or has tenure in a position by reason of section 9A of chapter 30 of the General Laws. Notwithstanding any general or special law to the contrary, all such employees shall continue to retain their right to collectively bargain pursuant to chapter 150E of the General Laws and shall be considered employees for the purposes of said chapter 150E. Nothing in this section shall be construed to confer upon any employee any right not held immediately before the date of said transfer, or to prohibit any reduction of salary grade, transfer, reassignment, suspension, discharge, layoff, or abolition of position not prohibited before such date.

(d) All petitions, requests, investigations and other proceedings appropriately and duly brought before each transferor agency or duly begun and pending before each transferor agency before the effective date of this act shall continue unabated and remain in force, but shall be assumed and completed by the respective transferee agency.

(e) All orders, rules and regulations duly made and all licenses and approvals duly granted by each transferor agency which are in force immediately before the effective date of this act shall continue in force and shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the respective transferee agency.

(f) All books, papers, records, documents, equipment, buildings, facilities, cash, and other property, both personal and real, including all such property held in trust, which immediately before the effective date of this act are in the custody of each transferor agency, shall be transferred to the respective transferee agency.

(g) All duly existing contracts, leases and obligations of each transferor agency shall continue in effect but shall be assumed by the respective transferee agency. No existing right or remedy of any character shall be lost, impaired or affected by this act.

SECTION 23. Notwithstanding any general or special law or regulation to the contrary, including section 407 of chapter 149 of the acts of 2004, which is superseded by this section, the executive office of health and human services shall expend, subject to the availability of federal financial participation, an amount not less than \$34,984,000 and not more than \$40,000,000 from the medical assistance intergovernmental transfer account in the Uncompensated Care Trust Fund and from allowable certified public expenditures made by the city of Quincy for the benefit of Quincy Medical Center (the "hospital" for purposes of this section) for supplemental title XIX rate payments to the hospital. The payments shall be established in accordance with title XIX of the federal Social Security Act or any successor federal statute, any regulations promulgated thereunder, and the commonwealth's title XIX state plan. No payment authorized under this section shall be made to the hospital unless: the hospital has executed the executive office's then-current acute hospital request for applications and contract; the city of Quincy makes an intergovernmental funds transfer of not more than \$5.393 million; the hospital agrees that the portion of the payment it receives pursuant to this section that is attributable to the city's intergovernmental funds transfer and the federal matching funds associated with such transfer will, when received by the hospital, not be transferred to any third party other than an agent of the hospital for investment purposes or in the

ordinary course of the hospital's providing patient care services; and the hospital repays directly to the commonwealth, rather than to the city of Quincy, the entire amount of the state loan due from the city of Quincy pursuant to chapter 101 of the acts of 1999, as amended by chapter 47 of the acts of 2003. The hospital's repayment of the state loan as provided for in this section shall extinguish the city's obligation to the commonwealth under said chapters 101 and 47. The city's intergovernmental funds transfer and the proceeds of the hospital's repayment of the state loan, as provided for in this section, shall be credited to the medical assistance intergovernmental funds transfer account in the Uncompensated Care Trust Fund and shall be administered in accordance with the provisions of this section and of paragraph (o) of section 18 of chapter 118G of the General Laws. Upon the hospital's payment of the state loan, the comptroller shall transfer from said account an amount that is not less than \$2,662,200 for payment to a municipality in Essex county to defray the debt resulting from the operation of a former municipally-owned hospital. Upon the hospital's payment of the state loan, the comptroller shall also transfer an amount not less than 30 percent of the remaining funds made available for payment to a municipality in Essex county to defray the debt resulting from the operation of a former municipally-owned hospital. The hospital's repayment of the state loan, as provided for in this section, and the division's making the supplemental payments authorized by this section may occur simultaneously. Any federal funds received by the commonwealth as a result of supplemental payments made to the hospital through certified public expenditures of the city of Quincy shall be dedicated for a payment to the city of Quincy.

SECTION 24. Notwithstanding any general or special law to the contrary, for fiscal years 2006 and thereafter, the total amount allocated for distribution to cities and towns pursuant to section 35 of chapter 10 of the General Laws shall be the sum of the amount distributed in fiscal year 2005 and: (i) in fiscal year 2006, 45 per cent of the difference between the fiscal year 2005 distribution and the amount that would otherwise be payable; (ii) in fiscal year 2007, 65 per cent of the difference between the fiscal year 2005 distribution and the amount that would otherwise be payable; (iii) in fiscal year 2008, 85 per cent of the difference between the 2005 distribution and the amount that would otherwise be payable. For fiscal year 2009 and thereafter the distribution of lottery proceeds shall be determined pursuant to section 35 of chapter 10 of the General Laws.

SECTION 25. (a) Notwithstanding any general or special law to the contrary, the University of Massachusetts system and the President of the University shall retain all tuition for out-of-state students at the Amherst campus only and the board of trustees for the University of Massachusetts shall promulgate regulations to allow the administration of the Amherst campus to retain all tuition paid by students who are not residents of Massachusetts. The regulations shall ensure that no resident of Massachusetts is denied admission to the Amherst campus as a result of the tuition retention program.

(b) All out-of-state tuition and fees received by the board of trustees at the Massachusetts College of Liberal Arts shall be retained by the board of trustees of that institution in a revolving trust fund or funds and shall be expended as the board may direct. The board shall ensure that no resident of Massachusetts is denied admission to the College as a

result of the tuition retention program. Any balance in the trust fund or funds at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(c) All tuition and fees received by the board of trustees at the Massachusetts College of Art shall be retained by the board of trustees of that institution in a revolving trust fund or funds and shall be expended as the board may direct. Any balance in the trust fund or funds at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(d) All tuition and fees received by the board of trustees at the Massachusetts Maritime Academy shall be retained by the board of trustees of that institution in a revolving trust fund or funds and shall be expended as the board may direct. Any balance in the trust fund or funds at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

(e) Notwithstanding any general or special law to the contrary, for employees of public higher education institutions who are paid from tuition retained pursuant to this section, fringe benefits shall be funded as if those employees' salaries were supported by state appropriations. This section shall apply only to fringe benefits associated with salaries paid from tuition retained by the respective boards of trustees for the University of Massachusetts at Amherst, the Massachusetts College of Art, the Massachusetts College of Liberal Arts and the Massachusetts Maritime Academy, as a direct result of the implementation of this section.

(f) The respective boards of trustees for the University of Massachusetts at Amherst, the Massachusetts College of Art, the Massachusetts College of Liberal Arts and the Massachusetts Maritime Academy shall each issue a report on the progress of this initiative no later than February 1 of each year to the house and senate chairs of the joint committee on higher education, the chairs of the house and senate committees on ways and means and the executive office of administration and finance. The report shall include the number of out-of-state students attending the school, the amount of tuition revenue retained under the program and any programs or initiatives funded with the retained revenue.

SECTION 26. Notwithstanding any general or special law to the contrary, in hospital fiscal year 2006, the division of health care finance and policy may administer, as provided in this section, the Uncompensated Care Trust Fund, established by section 18 of chapter 118G of the General Laws, to collect assessments as specified in section 1 of said chapter 118G for deposit to the fund, and to make certain payments to acute hospitals and community health centers from the uncompensated care pool to offset the costs of services provided to uninsured or low income residents. The division and the executive office of health and human services may promulgate regulations to implement this section.

The division, in consultation with the executive office, shall ensure that assessment liability to the fund and payments from the uncompensated care pool are structured in a

manner to secure for the General Fund the maximum allowable federal reimbursement under Title XIX, XXI, or any successor federal law.

In hospital fiscal year 2006, the total liability of all acute care hospitals to the fund shall be \$160,000,000. The division shall calculate an assessment percentage rate by dividing \$160,000,000 by the projected annual aggregate private sector charges in the fiscal year for all acute care hospitals. Each acute care hospital's liability to the fund shall be equal to the product of the percentage rate and its private sector charges.

In hospital fiscal year 2006, the total surcharge liability of surcharge payers to the Uncompensated Care Trust Fund shall be \$160,000,000. The surcharge amount for each surcharge payer shall be equal to the product of: (a) the surcharge percentage, and (b) amounts paid for services of an acute hospital or ambulatory surgical center by each surcharge payer. The division shall calculate the surcharge percentage by dividing \$160,000,000 by the projected annual aggregate payments subject to surcharge, as defined in said section 1 of said chapter 118G.

All Title XIX federal financial participation revenue generated by hospital payments funded by the Uncompensated Care Trust Fund, whether the payments are made by the division or the executive office, shall be credited to the General Fund, except that \$7,349,850 shall be deposited in the Distressed Provider Expendable Trust Fund.

All hospital payments made pursuant to this section shall be subject to federal approval and conditioned on the receipt of full federal financial participation. All such payments shall be established in accordance with Title XIX of the Social Security Act, or any successor federal law, any regulations promulgated thereunder, and the commonwealth's Title XIX state plan.

The division shall calculate an annual payment liability from the uncompensated care pool to each acute care hospital for fiscal year 2006. In determining the liability amount, the division shall:

(a)(1) calculate each hospital's actual free care cost for the 12-month period from October 1, 2003, to September 30, 2004, inclusive, by using each hospital's actual submitted free care charges to the division on the UC-04 times its ratio of costs to charges for pool fiscal year 2004;

(2) project each hospital's free care costs above for pool fiscal year 2005 by using a cost growth factor of 7.6 per cent;

(3) project each hospital's total free care costs for pool fiscal year 2006 by multiplying each hospital's pool fiscal year 2005 projected free care costs from subclause (2) by a cost growth factor of 7.6 per cent; and

(4) take into account such factors as the financial burden of hospitals that provide proportionately the largest volume of free care and the situation of any free-standing pediatric hospital with a disproportionately low volume of Title XVIII payments; and

(b) allocate the available funds in a manner that pays to each hospital a fixed percentage of its projected free care costs for hospital fiscal year 2006, as determined by the division using prior year data and considering the total funds available for the purpose. This fixed percentage shall not be less than 85 per cent of free care costs, as defined in said section 1 of said chapter 118G, for the 2 disproportionate share hospitals with the highest relative volume of free care costs in hospital fiscal year 2003, and not less than 88 per cent of free care costs, as defined in said section 1 of said chapter 118G, for the 14 acute hospitals with the next-highest relative volume of free care costs in that year. In order to identify

these 16 hospitals, the division shall rank all hospitals based on the percentage of each hospital's free care costs divided by the total free care costs of all hospitals in the commonwealth. All other acute care hospitals shall receive the highest possible percentage of free care costs given available remaining funds. The hospital fiscal year 2006 annual liability amount to each hospital shall be funded by the trust fund. This liability may be satisfied through either a disproportionate share payment or an adjustment to Title XIX service rate adjustment payment, or a combination thereof, in accordance with the terms provided for in an agreement entered into by an acute care hospital and the executive office. The comptroller, in consultation with the division and the executive office, shall transfer funds from the trust fund to the executive office for the purpose of the Title XIX service rate adjustment payments.

The executive office may use other federally-permissible funding mechanisms available for publicly-operated hospitals and hospitals with an affiliation with a publicly-operated health care entity to reimburse up to \$70,000,000 of uncompensated care costs at the hospitals using sources distinct from the funding made available to the trust fund under this section.

The executive office shall make payments from the uncompensated care pool for services provided by community health centers to low income residents. The executive office shall structure such payments to maximize allowable federal reimbursement under Title XIX. Pursuant to section 117 of chapter 140 of the Acts of 2003, all Title XIX federal financial participation revenue generated by community health center payments funded by the Uncompensated Care Trust Fund, whether the payments are made by the division or the executive office, shall be retained in a separate account within the Uncompensated Care Trust Fund and expended, without further appropriation, for uncompensated care pool payments to community health centers, in addition to the amount specified in the following paragraph.

In hospital fiscal year 2006, \$466,000,000 from the trust fund shall be credited to the uncompensated care pool for payments to acute hospitals provided for in this section. In addition to the federal financial participation to be retained in, and expended from, the trust fund for community health centers pursuant to the preceding paragraph, \$56,000,000 from the trust fund shall be credited to the pool for payments to community health centers provided for in this section and \$4,000,000 shall be credited for administrative expenses, including demonstration projects pursuant to sections 21 and 22 of chapter 47 of the acts of 1997, as amended by sections 156, 157, and 158 of chapter 184 of the acts of 2002.

In hospital fiscal year 2006, the office of the inspector general is hereby authorized to continue to expend funds appropriated in chapter 240 of the acts of 2004 from the Uncompensated Care Trust Fund for the costs associated with maintaining a pool audit unit within said office. The unit shall continue to oversee and examine the practices in emergency rooms of all Massachusetts' hospitals concerning the care of the uninsured and the resulting free care charges. The inspector general shall submit a report to the house and senate committees on ways and means on the results of the audits and any other completed analyses not later than March 1, 2006. For the purposes of the audits, allowable free care services shall be as provided in chapter 118G of the General Laws and any applicable regulations.

SECTION 27. Notwithstanding any general or special law to the contrary, beginning January 1, 2006, in addition to the eligibility requirements set forth in section 39 of chapter 19A of the General Laws, to be considered eligible for the subsidized catastrophic prescription drug insurance program, hereinafter referred to as the “prescription advantage program”, individuals who receive Medicare and are applying for, or are then enrolled in, the prescription advantage program shall also be enrolled in a Medicare Part D plan, or in a Medicare Advantage plan if that plan provides prescription drug benefits equivalent to or better than Medicare Part D. In addition to the eligibility requirements set forth in said section 39 of said chapter 19A, to be considered eligible for the prescription advantage program, individuals who receive Medicare and are applying for, or are then enrolled in, the prescription advantage program, who may qualify for the low-income subsidy under the Medicare Prescription Drug, Improvement and Modernization Act of 2003, hereinafter referred to as “MMA”, Subpart P — Premiums and cost-sharing subsidies for low-income individuals shall apply for those subsidies. To the extent permitted by MMA and regulations promulgated thereunder and all other applicable federal law, the prescription advantage program may apply on behalf of a member for enrollment into a Medicare Part D plan or for the low-income subsidy provided under MMA and receive information about the member’s Medicare eligibility and enrollment status necessary for the operation of the prescription advantage program. Beginning January 1, 2006, for enrollees who qualify for Medicare Part D, the prescription advantage program shall provide a supplemental source of financial assistance for prescription drug costs, hereinafter referred to as “supplemental assistance” in lieu of the catastrophic prescription drug coverage provided in said section 39 of said chapter 19A. The prescription advantage program shall provide supplemental assistance for premiums, deductibles, payments and co-payments required by the Part D plan or Medicare Advantage plan. The department of elder affairs shall establish the amount of the supplemental assistance it will provide enrollees based on a sliding income scale and the coverage provided by the enrollees’ Part D or Medicare Advantage plan. Residents of the commonwealth who are not eligible for Medicare will continue to be eligible for the prescription advantage program pursuant to said section 39 of chapter 19A. The executive office of elder affairs shall report quarterly, beginning not later than September 30, 2005, to the chairs of the house and senate committees on ways and means, the joint committee on health care financing and the joint committee on elder affairs on the number of prescription advantage members by income categories; the prescription advantage costs to date; the projected prescription advantage costs for the remainder of the fiscal year; and the prescription advantage members’ out-of-pocket costs for formulary and nonformulary drugs. In addition, beginning March, 2006, the executive office shall also report the number of prescription advantage members enrolled in a Part D plan; the names of the Part D plans in which the members are enrolled, including the number of members enrolled in each; and the cost savings to prescription advantage specifically related to Part D involvement.

SECTION 28. Notwithstanding any general or special law to the contrary, the comptroller shall, in consultation with the office of the state treasurer, the executive office for administration and finance, and the executive office of health and human services, develop a schedule for making a series of transfers not to exceed \$171,900,000

from the General Fund to the Uncompensated Care Trust Fund for the purpose of making revenues available for the administration of the uncompensated care pool, established under subsection (d) of section 18 of chapter 118G of the General Laws, as appearing in the 2002 Official Edition. Said schedule shall make said transfers in increments as deemed appropriate to meet the cash flow needs of the commonwealth and said uncompensated care pool; provided, that said transfers shall not begin before October 1, 2005 and shall be completed on or before June 30, 2006.

SECTION 29. Notwithstanding any general or special law to the contrary, in fiscal year 2006, the division of health care finance and policy, referred to in this section as the division, shall establish nursing facility Medicaid rates, payable out of the Health Care Quality Improvement Trust Fund, established under section 2EEE of chapter 29 of the General Laws, effective July 1, 2005 through June 30, 2006 that cumulatively total \$288,500,000 more than the annual payment rates established by the division under the rates in effect as of June 30, 2002, as mandated under section 1 of chapter 42 of the acts of 2003. The division shall adjust per diem rates to reflect any reductions in Medicaid utilization. Payments from the fund shall be allocated in the following manner in fiscal year 2006:

(1) effective July 1, 2005, an annual amount of \$99,000,000 in the aggregate to fund the use of 2000 base year cost information for rate determination purposes; provided, that \$9,000,000 of this amount shall be expended for purposes of reimbursing nursing facilities for up to 10 bed hold days for patients of the facility on medical and non-medical leaves of absence;

(2) effective July 1, 2005, an annual amount of \$122,500,000 for enhanced payment rates to nursing homes;

(3) effective July 1, 2005, an annual amount of \$50,000,000 to fund a rate add-on for wages, hours and benefits and related employee costs of direct care staff of nursing homes. As a condition for such rate add-on, the division of health care finance and policy shall require that each nursing home document to the division that such funds are spent only on direct care staff by increasing the wages, hours and benefits of direct care staff, increasing the facility's staff-to-patient ratio, or by demonstrably improving the facility's recruitment and retention of nursing staff to provide quality care, which shall include expenditure of funds for nursing facilities which document actual nursing spending that is higher than the median nursing cost per management minute in the base year used to calculate Medicaid nursing facility rates. A facility's direct care staff shall include all nursing personnel including registered nurses, licensed practical nurses, and certified nurses' aides hired by the facility from any temporary nursing agency or nursing pool registered with the department of public health. The division shall credit wage increases that are over and above any previously collectively bargained for wage increases. In monitoring compliance for this rate add-on, the division's regulations shall adjust any spending compliance test to reflect any Medicaid nursing facility payment reductions, including, but not limited to, rate reductions imposed on or after October 1, 2002. The expenditure of these funds shall be subject to audit by the division in consultation with the department of public health and the executive office of health and human services. In implementing this section, the division shall consult with the Nursing Home Advisory Council;

(4) effective July 1, 2005, an annual amount of \$17,000,000 to fund rate adjustments for reasonable capital expenditures by nursing homes, giving priority to nursing homes located or constructed in under-bedded areas as determined by said executive office, in consultation with the division of health care finance and policy, that meet quality standards established by the executive office of health and human services in conjunction with the department of public health and the division of health care finance and policy for the purposes of encouraging the upgrading and maintenance of quality of care in nursing homes, and to fund rate adjustments to eligible nursing homes that meet utilization standards established by the executive office of health and human services in consultation with the division of health care finance and policy for the purpose of reducing unnecessary nursing home admissions and facilitating the return of nursing home residents of non-institutional settings and to the extent that the annual amount of \$17 million in this paragraph is not fully allocated, the division shall first provide operating or capital rate adjustments for publicly operated, urban and/or geographically isolated nursing homes;

(5) \$300,000 for the purposes of an audit of funds distributed under clause (3). The division of health care finance and policy, in consultation with the department of public health and with the assistance of the executive office of health and human services, shall establish penalties sufficient to deter noncompliance to be imposed against any facility that expends any or all monies in violation of clause (3), including but not limited to recoupment, assessment of fines or interest. The division shall report to the house and senate committees on ways and means not later than October 1, 2006 a preliminary analysis of funds expended under this subsection in fiscal year 2006 and a description and timeline for auditing of these funds;

(6) \$250,000 to fund expenses at the division of health care finance and policy related to the implementation and administration of section 25 of chapter 118G of the General Laws; and

(7) an amount sufficient to implement section 622 of chapter 151 of the acts of 1996;

The comptroller shall transfer from the Health Care Security Trust Fund to the Health Care Quality Improvement Trust Fund on the first business day of each quarter, the amount indicated by the division of health care finance and policy and the executive office of health and human services to provide the appropriate rate increases to nursing homes; and provided further, that any additional funds that may become available in the Health Care Quality Improvement Trust Fund due to decreased Medicaid utilization shall first fund a per-diem rate add-on for large Medicaid providers as specified in 114.2 CMR 6.06 (10) (a), as in effect on September 1, 2003 and then fund further enhanced rates to nursing homes.

SECTION 30. Notwithstanding any general or special law to the contrary, on or before June 30, 2006, the comptroller shall transfer \$600,000,000 from the Commonwealth Stabilization Fund, established pursuant to section 2H of chapter 29 of the General Laws, to the General Fund.

SECTION 31. Notwithstanding any general or special law to the contrary, in fiscal year 2006, expenditures from the Distressed Provider Expendable Trust Fund, as established by chapter 241 of the acts of 2004, shall be dedicated to efforts that are

designed to improve and enhance the ability of distressed community providers to serve populations in need more efficiently and effectively, including, but not limited to, the ability to provide community-based care, clinical support and care coordination services, pharmacy management services, or other efforts to create effective coordination between hospital care and ambulatory care sites in the community. The secretary of health and human services shall develop emergency regulations governing the recommended uses of the fund in partnership with the Massachusetts League of Community Health Centers and the Massachusetts Hospital Association. The secretary shall provide a \$1,000,000 one-time grant from the fund for a specialty hospital located in Suffolk county which provides diagnosis and treatment of the eyes, ears, nose and throat. The secretary shall provide a \$1,000,000 one-time grant from the fund for a sole community hospital located in the city of Gardner providing essential community health services and access to care for low-income population in northern Worcester county. The secretary shall provide a \$750,000 one-time grant from the fund for a teaching hospital located in central Berkshire county. The secretary shall provide a \$500,000 one-time grant from the fund for a not-for-profit acute care hospital located in the northwestern-most portion of Berkshire county. The secretary shall provide a \$100,000 one-time grant from the fund for a community health center located in the city of Lynn providing health care to medically underserved and uninsured patients and which provides a 340B pharmacy program. The secretary shall provide a \$500,000 one-time grant from the fund for the Lowell Community Health Center. The secretary shall provide a \$285,000 one-time grant from the fund for a community, nonprofit, acute care regional teaching hospital located in Worcester county affiliated with the University of Massachusetts Memorial Health Care System. The secretary shall provide a \$511,000 one-time grant from the fund for a nonprofit, disproportionate share, community, acute care hospital with less than 115 beds that operates an inpatient psychiatric unit licensed by the department of mental health located in southern Worcester county affiliated with the University of Massachusetts Memorial Health Care System. The secretary shall provide a \$600,000 one-time grant from the fund for Hubbard Regional hospital. The secretary shall provide a \$750,000 one-time grant for Franklin Medical Center in the town of Greenfield. The secretary shall provide a \$3,000,000 one-time grant from the fund for a teaching hospital in Hampden County with high medicaid utilization. The secretary shall provide a \$400,000 one-time grant from the fund for a community health center located in the South Boston section of the city of Boston which operates an urgent care center and which is affiliated with the disproportionate share teaching hospital in Suffolk county with the highest volume of free care. The secretary shall provide a \$350,000 one-time grant from the fund for a community health center located in the Codman square neighborhood of the Dorchester section of the city of Boston providing health care to medically underserved patients in Dorchester that has formed an integrated health services network to provide access to primary and preventive public health services. The secretary shall provide a \$350,000 one-time grant from the fund for a community health center located near the Fields Corner neighborhood of Dorchester, on Dorchester avenue, providing health care to medically underserved patients in Dorchester, that has formed an integrated health services network to provide access to primary and preventive public health services. The secretary shall provide a \$400,000 one-time grant from the fund for a community health center with at least 3 sites serving the medically underserved areas of Dorchester and

South Boston, including at least 1 public housing project. The secretary shall provide a \$5,500,000 one-time grant from the fund for a disproportionate share, financially distressed community hospital located in Suffolk county with a locked inpatient adolescent psychiatric unit that participates in the MassHealth program. The secretary shall provide a \$200,000 one-time grant from the fund to a community health center serving the towns of the Outer and Lower Cape in Barnstable County for the purpose of developing a 340B pharmacy program. The secretary shall provide a \$750,000 one-time grant from the fund for a sole community hospital under the Medicare program located in Barnstable County. The secretary shall provide a \$300,000 one-time grant from the fund to a community health center serving the full range of the underserved populations throughout the mid-Cape area. The secretary shall provide a \$1,000,000 one-time grant from the fund for Wing Memorial Hospital in the town of Palmer. The secretary shall provide a \$1,000,000 one-time grant from the fund for Mary Lane Hospital in the town of Ware. The secretary shall provide a \$4,000,000 one-time grant from the fund for statewide providers with the service area of the Sisters of Providence Health System and Providence Behavioral Health Hospital. The secretary shall provide a \$750,000 one-time grant from the fund for a hospital located in Hampden county, west of the Connecticut river with under 100 beds that participates in MassHealth. The secretary shall provide a \$3,250,000 one-time grant from the fund for an acute care hospital in the city of Holyoke that is affiliated with a commonwealth-owned university medical school and that provides clinical training programs for nurses, allied health professionals and technicians through affiliations with community colleges and private universities. The secretary shall provide a \$950,000 one-time grant from the fund to a disproportionate share, acute care hospital located in the southeastern Massachusetts division of the medical assistance psychiatric service area that operates an inpatient psychiatric unit within the city of Brockton. The secretary shall provide a \$500,000 one-time grant from the fund for a community health center that serves as a family practice residency training site for a commonwealth-funded medical school and that assumed the primary care services of the former Worcester City Hospital. The secretary shall provide a \$750,000 one-time grant from the fund for a nonprofit visiting nurse association located in the city of Boston that delivers at least 30 per cent of all MassHealth reimbursed skilled nursing visits and at least 50 per cent of all MassHealth reimbursed home health aide services in Suffolk county. The secretary shall provide a \$300,000 one-time grant from the fund to inpatient behavioral health providers under contract with MassHealth's managed care contractors for mental health and substance abuse for costs associated with providing care to stuck kids. The secretary shall provide a \$500,000 one-time grant from the fund for an acute care hospital serving the Melrose and Wakefield communities that operates a family health services clinic. The secretary shall provide a \$500,000 one-time grant from the fund for an acute care hospital located in the city of Gloucester that is part of a health care system. The secretary shall provide a \$750,000 one-time grant for a non-teaching, community, disproportionate share, acute care hospital located in southeastern Massachusetts which provides inpatient care to over 5,000 MassHealth or MassHealth HMO patients per year. The secretary shall provide a \$500,000 one-time grant from the fund for a pediatric unit of an acute care hospital in Suffolk county in which the ratio of licensed pediatric beds to total licensed hospital beds shall exceed 0.20. The secretary shall provide a \$250,000 one-time grant from the fund to a not-for-profit, long-term acute

care hospital located in the Roxbury section of the city of Boston. The secretary shall provide a \$200,000 one-time grant from the fund for Dimock Community Health Center located in the Egleston Square neighborhood in Roxbury for health care and traditional housing to medically underserved patients from the Roxbury, Dorchester and Jamaica Plain sections of the city of Boston. The secretary shall provide a \$400,000 one-time grant from the fund for a community health center located in the South End section of the city of Boston which is the largest provider of community based mental-health services and serves significant homeless and latino populations. The secretary shall provide a \$200,000 one-time grant from the fund for Whittier Street Community Health Center in Roxbury for adult and child behavioral health services to the homeless, immigrant and refugee populations. The secretary shall provide a \$1,000,000 one-time grant from the fund for a pediatric rehabilitation hospital located in Suffolk county. The secretary shall provide a \$2,000,000 one-time grant from the fund to a disproportionate share hospital provider located in the county formerly known as Essex county that has a family practice residency program in partnership with a federally qualified community health center, which program enhances the coordination of cost-effective care delivery in ambulatory settings and at the hospital to underserved populations. The secretary shall provide a \$3,500,000 one-time grant from the fund for a community health center located in the East Boston section of the city of Boston which operates both a PACE program and a 340B pharmacy program. The secretary shall provide a \$500,000 one-time grant for the North Shore Medical Center. The secretary shall provide a \$1,000,000 one-time grant from the fund for a disproportionate share teaching hospital in Worcester county for emergency mental health services. The secretary shall provide a \$250,000 one-time grant from the fund for a community health center in the North End section of the city of Boston. The secretary shall provide a \$500,000 one-time grant from the fund for a health care center located in the city of Revere and affiliated with Massachusetts General Hospital. The secretary shall provide a \$500,000 one-time grant for Waltham Community Health Center. The secretary shall provide a \$500,000 one-time grant from the fund for a hospital located in the City of Everett. The secretary shall provide a \$150,000 one-time grant from the fund for a nonprofit, acute care community hospital located in Middlesex County that serves a 25 town area extending northwest of Boston to the New Hampshire border . The secretary shall provide a \$300,000 one-time grant from the fund for a community hospital with geriatric psychiatry beds providing essential community health services located in the town of Clinton. The secretary shall provide a \$200,000 one-time grant from the fund for an acute care hospital located in Winchester that is the number one provider of acute and emergency services to the city of Woburn. The secretary shall provide a \$200,000 one-time grant from said fund to a non-acute chronic hospital located in Hampden County, east of the Connecticut River, with less than 200 beds, that participates in MassHealth. The secretary shall provide a \$200,000 one-time grant from the fund for a community health center located on Bowdoin Street in the Dorchester neighborhood. The secretary shall provide a \$200,000 one-time grant from the fund for a community health center serving a disadvantaged population in the neighborhood of Mattapan. The secretary shall provide a \$100,000 one time grant for a community health center serving a disadvantaged, multi-lingual population in the Uphams Corner neighborhood in Dorchester. The secretary shall provide a \$100,000 one-time grant from the fund to Fenway Community Health Center located in the Fenway section of the City

of Boston which provides health care to gay and lesbian populations. The secretary shall provide a \$100,000 one-time grant from the fund to South Cove Community Health Center located in the Chinatown section of the City of Boston which provides health care to immigrant and linguistically diverse populations. The secretary shall provide a \$300,000 one-time grant from the fund for Milton Hospital. The secretary shall provide a \$300,000 one-time grant from the fund shall be directed to a community hospital located in Northern Bristol County with a Medicare/Medicaid and low-income uninsured patient mix exceeding 50 per cent that provides at least 50,000 emergency room visits per annum and is the largest provider of Medicaid obstetric services in the region. The secretary shall provide a \$300,000 one-time grant from the fund for Great Brook Valley Health Center in Worcester. The secretary shall provide a \$600,000 one-time grant from the fund for a community hospital located in Norfolk county with an affiliation with a disproportionate share financially distressed community hospital located in Suffolk County with a locked inpatient adolescent psychiatric unit. The secretary shall file a report not later than November 1, 2005 to the speaker of the house of representatives, the president of the senate and to the house and senate committees on ways and means outlining the providers to be funded during fiscal year 2006 from the fund, the amount expended or to be expended for each provider under this section and the extent to which any portion of the expenditures are eligible for federal reimbursement. Any federal reimbursements received by the commonwealth for expenditures made from the fund shall be deposited into the fund.

SECTION 32. The amounts transferred pursuant to section 5B of chapter 29 of the General Laws shall be made available for the commonwealth's Pension Liability Fund established under section 22 of chapter 32 of the General Laws. The amounts transferred pursuant to said section 5B of said chapter 29 shall meet the commonwealth's obligations under section 22C of said chapter 32, including retirement benefits payable by the state employees' and the state teachers' retirement systems, for the costs associated with a 3 per cent cost-of-living adjustment pursuant to section 102 of said chapter 32, the reimbursement of local retirement systems for previously authorized cost-of-living adjustments pursuant to section 102 of said chapter 32, and for the costs of increased survivor benefits pursuant to chapter 389 of the acts of 1984. Subject to the rules and regulations promulgated by the treasurer, the state retirement board and each city, town, county and district shall verify the cost thereof and the treasurer may make such payments upon a transfer of funds to reimburse certain cities and towns for pensions to retired teachers and including any other obligations which the commonwealth has assumed on behalf of any retirement system other than the state employees' or state teachers' retirement systems and including the commonwealth's share of the amounts to be transferred pursuant to section 22B of said chapter 32 and the amounts to be transferred pursuant to subsection (a) of the last paragraph of section 21 of chapter 138 of the General Laws. All payments for the purposes described in this item shall be made only pursuant to distribution of monies from the fund, and any such distribution and the payments for which distributions are required shall be detailed in a written report filed quarterly by the commissioner of administration with the house and senate committees on ways and means and the joint committee on public service in advance of such distribution. Such distributions shall not be made in advance of the date on which a

payment is actually to be made. The state retirement board may expend an amount for the purposes of the higher education coordinating council's optional retirement program pursuant to section 40 of chapter 15A of the General Laws. To the extent that the amount transferred pursuant to section 5B of said chapter 29 exceeds the amount necessary to adequately fund the annual pension obligations, the excess amount shall be credited to the Pension Reserves Investment Trust Fund of the commonwealth for the purpose of reducing the unfunded pension liability of the commonwealth.

SECTION 33. (a) Upon the request of the board of selectmen in a town, the city council in a plan E city or the mayor in any other city, the department of revenue may recalculate the minimum required local contribution, as defined in section 2 of chapter 70 of the General Laws in the fiscal year ending June 30, 2006. Based on the criteria in this section, the department shall recalculate the minimum required local contribution for a municipality's local and regional schools and shall certify the amounts calculated to the department of education.

(b) A city or town that used qualifying revenue amounts in a fiscal year which will not be available for use in the next fiscal year, or that will be required to use revenues for extraordinary non school-related expenses for which it did not have to use revenues in the preceding fiscal year, or that has an excessive certified municipal revenue growth factor which is also greater than or equal to 1.5 times the state average municipal revenue growth factor, may appeal to the department of revenue not later than October 1, 2005 for an adjustment of its minimum required local contribution and net school spending.

(c) If a claim is determined to be valid, the department of revenue may reduce proportionately the minimum required local contribution amount based on the amount of shortfall in revenue or based on the amount of increase in extraordinary expenditures in the current fiscal year, but no adjustment to the minimum required local contribution on account of an extraordinary expense in the budget for the fiscal year ending on June 30, 2006 shall affect the calculation of the minimum required local contribution in subsequent fiscal years. Qualifying revenue amounts shall include, but not be limited to, extraordinary amounts of free cash, overlay surplus and other available funds.

(d) If, upon submission of adequate documentation, the department of revenue determines that the municipality's claim regarding an excessive municipal revenue growth factor is valid, the department shall recalculate the municipal revenue growth factor and the department of education shall use the revised growth factor to calculate the preliminary local contribution, the minimum required local contribution and any other factor that directly or indirectly uses the municipal revenue growth factor. Any relief granted as a result of an excessive municipal revenue growth factor shall be a permanent reduction in the minimum required local contribution.

(e) The board of selectmen in a town, the city council in a plan E city, the mayor in any other city, or a majority of the member municipalities of a regional school district, which used qualifying revenue amounts in a fiscal year that will not be available for use in the next fiscal year, may appeal to the department of revenue not later than October 1, 2005 for an adjustment to its net school spending requirement. If the claim is determined to be valid, the department of revenue shall reduce the net school spending requirement based on the amount of the shortfall in revenue and reduce the minimum required local contribution of member municipalities accordingly. Qualifying revenue amounts shall

include, but not be limited to, extraordinary amounts of excess and deficiency, surplus and uncommitted reserves.

(f) If the regional school budget has already been adopted by 2/3 of the member municipalities then, upon a majority vote of the member municipalities, the regional school committee shall adjust the assessments of the member municipalities in accordance with the reduction in minimum required local contributions approved by the department of revenue or the department of education in accordance with this section.

(g) Notwithstanding clause (14) of section 3 of chapter 214 of the General Laws or any other general or special law to the contrary, the amounts so determined under this section shall be the minimum required local contribution described in chapter 70 of the General Laws. The department of revenue and the department of education shall notify the house and senate committees on ways and means and the joint committee on education of the amount of any reduction in the minimum required local contribution amount.

(h) If a city or town has an approved budget that exceeds the recalculated minimum required local contribution and net school spending amounts for its local school system or its recalculated minimum required local contribution to its regional school districts as provided by this section, the local appropriating authority shall determine the extent to which the community shall avail itself of any relief authorized under this section.

(i) The amount of financial assistance due from the commonwealth in fiscal year 2006 under chapter 70 of the General Laws or any other law shall not be changed on account of any redetermination of the minimum required local contribution under this section.

(j) The department of revenue and the department of education shall issue guidelines for their respective duties under this section.

SECTION 34. Notwithstanding any general or special law to the contrary, section 615 of chapter 26 of the acts of 2003 shall apply in fiscal year 2006.

SECTION 35. There shall be a pilot program operated by the Barnstable county sheriff to determine the effectiveness of proposed improvements to the regional uniform protocol for sex offender management. Any individual who has been adjudicated as a sex offender, is being released from a department of correction facility or a house of correction, and intends to reside in Barnstable county must register with the sex offender registry board 120 days before his release and declare the municipality in which he plans to reside. The department of correction facility or house of correction releasing the sex offender shall require that he be transferred to the house of correction in Barnstable county 30 days before his release. One critical objective of the pilot program shall be to insure, through the expanded use of regional hearing officers, that all sex offenders being released into Barnstable county municipalities are registered and classified before they are released from custody. The sex offender registry board, in consultation with the Barnstable county sheriff, shall expand the use of regional hearing officers in Barnstable county to insure the registration and classification of sex offenders before their release from custody. In registering, sex offenders must disclose their primary and any secondary post-release addresses.

This pilot program shall operate until June 30, 2006.

SECTION 36. There shall be a special commission on the future of the metropolitan beaches under the jurisdiction of the department of conservation and recreation. The commission shall review the effectiveness of the department's "Back to the Beaches" program and shall undertake a comprehensive study examining the existing maintenance, operational and infrastructure needs for those beaches, including, but not limited to, any security and capital-intensive repairs necessary to ensure future recreational use of those beaches. The commission shall also examine best management practices and funding alternatives for each beach, including, but not limited to, public-private partnerships, non-profit entities or other financial means that shall ensure access, quality recreational activities, programming, and improved water quality and beautification efforts at any of those beaches. Said commission shall also analyze and make recommendations on alternatives and methods to improve access from metropolitan beaches to the Boston harbor islands.

For the purposes of this section, the beaches shall include, but not be limited to: Malibu beach, Constitution beach, Carson beach, City Point beach, M. Street beach, Pleasure Bay, Savin Hill beach, and Tenean beach in the city of Boston; Nantasket beach in Hull; Nahant beach in the town of Nahant; Winthrop beach in the town of Winthrop; Wollaston beach, Pleasure Bay, and Squantum Point park in the city of Quincy; Revere beach and Short beach in the city of Revere; and Red Rock park and Lynn beach in the city of Lynn. The commission shall consist of 3 members of the house of representatives appointed by the speaker of the house, 1 of whom shall be the house minority leader or his designee and 1 of whom shall be appointed co-chair of the committee; 3 members of the senate appointed by the senate president, 1 of whom shall be the senate minority leader or his designee and 1 of whom shall be appointed co-chair of the committee; 1 member appointed by the secretary of the executive office of environmental affairs or the secretary's designee; 1 member appointed by the commissioner of the department of conservation and recreation or the commissioner's designee; 2 members appointed by the mayor of the city of Boston, of whom each shall be a resident of the East Boston section of the city of Boston, a resident of the Dorchester section of the city of Boston or a resident of the South Boston section of the city of Boston; 6 members who are appointed by the chief executives or board of selectmen from the cities and towns of Hull, Nahant, Quincy, Revere, Lynn, and Winthrop; 1 member appointed by the Boston Foundation; 1 member appointed by the Greater Boston Chamber of Commerce; and 1 member appointed by the Boston University School of Public Management.

In carrying out the study, the commission shall hold hearings within close proximity to Boston harbor beaches to solicit testimony from interested stakeholders, including but not limited to: the executive office of environmental affairs, the department of conservation and recreation, the Massachusetts Water Resources Authority, the Massachusetts Port Authority, the Massachusetts Bay Transportation Authority, the Boston Harbor Association, the Boston Harbor Islands Alliance, Save The Harbor/Save The Bay, local municipalities, non-profit organizations, friends' groups, and business and community leaders.

The chairs of the commission may expend funds from item 9700-0020 for the following purposes: to hire a coordinator for the work of the commission, to hire consultants to examine existing resources and to assist with public hearings and planning efforts, to

research best practices in the commonwealth and other states, and other such services as the chairs find necessary to conduct this study.

The commission shall submit a report containing its recommendations by filing said report with the clerks of the senate and house of representatives, and the senate and house committees on ways and means not later than April 30, 2006.

SECTION 37. There shall be a special commission to study the production of cable television coverage of legislative sessions, committee hearings, and other legislative and administration proceedings. The commission shall consist of 3 members to be appointed by the governor, 1 of whom shall have expertise in the cable television industry, and 1 of whom shall be an attorney; 2 members to be appointed by the senate president; 1 member to be appointed by the senate minority leader; 2 members to be appointed by the speaker of the house of representatives; and 1 member to be appointed by the minority leader of the house of representatives. The commission shall submit a report and recommendations to the house and senate committees on ways and means and the joint committee on state administration and regulatory oversight by November 1, 2005, which report shall include, but not be limited to, the following: (1) the possibility of arranging for television coverage of state legislative proceedings similar to federal coverage available on C-Span, (2) the cost, if any, to the commonwealth of such an arrangement, (3) potential revenue options to pay for the cost of providing coverage, (4) estimated viewer demand, including analysis of demand by region, for such coverage, and (5) recommendations for appropriate measures to arrange for such coverage.

SECTION 38. Except as otherwise specified, this act shall take effect on July 1, 2005.